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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,669	06/20/2003	Clifford A. Behrens	1241_1	5687
26111	7590	09/02/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			RHODE JR, ROBERT E	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,669	<b>Applicant(s)</b> BEHRENS ET AL	
	<b>Examiner</b> Rob Rhode	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 1-2-03 amended the specification and claims 1 - 2 as well as traversed rejections of Claims 1 - 2.

Currently, claims 1- 2 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 – 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linden (US 6,266,649 B1) in view of Herz (US 2001/0014868 A1).**

Regarding claim 1, Linden teaches a method for automatically recommending textual items stored in a database to a user of a computer-implemented service, the method comprising the steps of storing in a computer-readable memory selections of textual items entered by the user (Abstract and Figure 7), responsive to a new textual item being added to the database, applying a filter to the textual items, including the new textual item, and the stored user selections in a

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computer to establish a conceptual similarity among the textual items (see at least Col 2, lines 61 – 67 and Col 3, lines 1 – 6), and providing a computer generated alert the user about the new item whenever the conceptual similarity between the new textual item and the stored user selections is within a prescribed value with reference to the conceptual similarity (see at least Col 5, lines 31 – 56 and Figure 7). Please note that Linden does not disclose a latent semantic algorithm. However, Linden does disclose a method for automatically recommending textual items conceptually similar to the textual items stored in a database of previous purchases as well as current stored items in the shopping cart (i.e. database). For example, the text of the title of a book in the catalog of Linden is the conceptual similarity upon which the method of Linden recommends similar conceptual items such other books with similar book titles. Moreover, Linden disclose a method whereby and when a customer places a textual item such as book in their shopping basket – this provides relevant feedback upon which a query is built to find like textual items and recommend(s) them to the customer. Thereby, Linden and for examination purposes, the results are considered equivalent of recommending textual items to the consumer based on their “conceptual similarity”.

While Linden discloses method for automatically recommending items stored in a database of previous purchases and current stored items in the shopping cart as well as establishing a conceptual similarity among the textual items, the reference does not disclose applying a latent semantic algorithm.

However and in the same area of recommending textual items in an online shopping environment, Herz teaches applying a latent semantic index/algorithm to establish a conceptual similarity among textual items (see at least Abstract and Para 0140).

It would have been obvious to one of ordinary skill in the art to have provided the method of Linden with the method of Herz to have enabled a method a method for automatically recommending textual items stored in a database to a user of a computer-implemented service, the method comprising the steps of storing selections of textual items entered by the user, whenever a new item is added to the database, applying a latent semantic algorithm to the textual items, including the new item, and the stored user selections to establish a conceptual similarity among the textual items, and alerting the user about the new item whenever the conceptual similarity between the new item and stored selections is within a prescribed value with reference to the conceptual similarity. Linden discloses a method for automatically recommending textual items stored in a database to a user of a computer-implemented service, the method comprising the steps of storing selections of textual items entered by the user, whenever a new item is added to the database, applying a filter to the textual items, including the new item, and the stored user selections to establish a conceptual similarity among the textual items, and alerting the user about the new item whenever the conceptual similarity between the new item and stored selections is within a prescribed value with reference to the conceptual similarity (Abstract and Figure 7).

Herz discloses a method of applying a latent semantic index/algorithm to establish a conceptual similarity among textual items (see at least Abstract and Para 0140). In this regard, one of ordinary skill in the art would have been motivated to extend the method of Linden with a method for applying a latent semantic index/algorithm to establish a conceptual similarity among textual items. In this manner, the search can include additional text such as summaries or abstracts of the items and thereby enhance the relevancy of the recommendations.

Regarding claim 2, the Examiner takes Official Notice that a methods of alerting such as wherein the step of alerting includes the step of transmitting electronic mail to the user identifying the new item were old and well known at the time of the applicant's invention.

### ***Response to Arguments***

Applicant's arguments filed 6-07-05 have been fully considered but they are not persuasive.

Applicant argues that Linden nor Hertz teach establishing a conceptual similarity among textual items – “responsive to a new textual item being added to the database”. First, “conceptually similarity” is a very broad phrase, which was not specifically defined by the applicant. In that regard and for examination purposes, “conceptual similarity” was considered and as disclosed by Linden to be content based similarities extracted by analyzing item description or content (see at least Col 3, lines 3 – 6). Moreover, Linden discloses a user adding an item to an online shopping cart (i.e. database) and in

turn the method of Linden provides a recommendation of similar/like items to the item(s) selected and placed in the shopping cart by the user, which are conceptually similar - such as work vs. pleasure books (Abstract, Col 3, lines 56 - 67 and Figures 1 and 6). Thereby, Linden teaches one of ordinary skill establishing a "conceptual similarity" among textual items - "responsive to a new textual item being added to the database". Second, the Applicant in their specification disclosed that the method of the invention is for "automatically recommending textual items stored in a database...the user having selected one of the items" (Page 3, lines 25 -27). With regard to "textual items" the Applicant further discloses that " it is implicit that the items form a catalog in the generic sense, and that each of the items has an associated textual description..... which can be composed of audio tape listings, video tape listings...electronic product listings" (Page 24, lines 21 - 25). In this regard, Linden discloses and teaches one of ordinary skill of "automatically recommending textual items (i.e. similar book title listings) stored in a database, which have text in the titles as do audio tapes or CD's (see at least Abstract, Col 2, lines 32 - 56, Col 3, lines 38 - 55, Col 7, lines 24 - 39 and Figure 1). Therefore and as noted in this and previous rejection, Linden discloses and teaches a method for automatically recommending textual items stored in a database to a user of a computer-implemented service, the method comprising the steps of storing in a computer-readable memory selections of textual items entered by the user (Abstract and Figures 1 and 7), responsive to a new textual item being added to the database, applying a filter to the textual items, including the new textual item, and the stored user selections in a computer to establish a conceptual similarity among the textual items

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(see at least Col 2, lines 61 – 67 and Col 3, lines 1 – 6), and providing a computer generated alert the user about the new item whenever the conceptual similarity between the new textual item and the stored user selections is within a prescribed value with reference to the conceptual similarity (see at least Col 5, lines 31 – 56 and Figures 1 and 7).

Applicant argues that there is no motivation to combine Linden and Hertz.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the problem to be solved is where "relevance feedback is used to automatically provide recommendations". Further and as defined by Merriam-Webster's Colligate Dictionary, Tenth Edition, relevance is "the ability (as in information retrieval systems) to retrieve material that satisfies the needs of the user". Linden as well as Hertz in the same area of online shopping disclose and teach providing of retrieving information, which satisfies the needs of user/customer. For example, a user/customer shopping online is seeking relevant information regarding products to either purchase or to price or review, which will satisfy a need that have identified. Moreover, Linden and Herz disclose and teach



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applying different technical approaches to providing a recommendation based on the most relevant of current and past needs of a shopper/user/customer. With regard to Linden's teaching - please see above rejection and response to arguments reference sections and Figures. In turn, Herz in the same area of online shopping discloses and teaches providing relevant feedback being used to automatically provide recommendations as well as the use of latent semantic indexing/algorithm in providing these recommendations of textual items (see at least Abstract, Par 002, Para 003, first sentence and Para 0140). Moreover, the application and use of latent semantic indexing/algorithms in retrieving material that satisfies an online user/shoppers need for relevant information was old and well known and used for online search for context-based information retrieval. Therefore, one of ordinary skill in the art would have been motivated to extend the method of Linden with the method of Herz for applying a latent semantic index/algorithm to establish a conceptual similarity among textual items.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**571-273-8300**

[Official communications; including  
After Final communications labeled  
"Box AF"]

For general questions the receptionist can be reached at

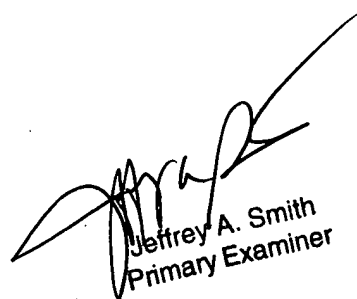
**571.272.3600**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Jeffrey A. Smith  
Primary Examiner